

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Service Rules for Advanced Wireless Services in)	WT Docket No. 07-195
the 2155-2175 MHz Band)	
)	

ORDER

Adopted: December 12, 2007

Released: December 12, 2007

By the Chief, Wireless Telecommunications Bureau:

1. This Order denies a request to modify the deadlines for filing comments and reply comments in response to the *Notice of Proposed Rulemaking* in the above-captioned proceeding (*AWS-3 NPRM*).¹ Comments remain due on December 14, 2007, and reply comments are due on January 14, 2008.²

2. On December 6, 2007, MetroPCS Communications, Inc. (MetroPCS) filed a request (*Request*) to modify the pleading schedule for the *AWS-3 NPRM*.³ MetroPCS argues that parties may be unable to submit informed comments about the non-technical issues, such as the band plan, spectrum block size, and geographic market areas, until the conclusion of the 700 MHz band auction, Auction No. 73.⁴ MetroPCS explains that the auction results “will influence parties’ positions.”⁵ In addition, MetroPCS states that interested parties that filed short-form applications to participate in the 700 MHz band auction, and are therefore subject to the Commission’s anti-collusion rules, could be inhibited from robustly participating in the *AWS-3 NPRM* until the anti-collusion rules are no longer in effect.⁶ As a result of the above factors, MetroPCS proposes to bifurcate the pleading schedule such that parties would file comments on the “technical issues” set forth in Sections IV.D and IV.F of the *AWS-3 NPRM* in accordance with the current pleading schedule and would file comments and reply comments on the remaining issues on March 31, 2008, and April 14, 2008, respectively.⁷ MetroPCS asserts that this bifurcated schedule will allow the Commission to meet its voluntary commitment to adopt rules within

¹ Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, WT Docket No. 07-195, *Notice of Proposed Rulemaking*, 22 FCC Rcd 17035 (2007).

² See Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, 72 Fed. Reg. 64013 (Nov. 14, 2007).

³ Request of MetroPCS Communications, Inc. for Partial Modification of Comment and Reply Comment Deadlines (filed December 6, 2007) (*Request*).

⁴ See, e.g., Auction of 700 MHz Band Licenses Scheduled for January 24, 2008, AU Docket No. 07-157, *Public Notice*, 22 FCC Rcd 18141 (2007) (*700 MHz Auction Band Public Notice*).

⁵ *Request* at 3.

⁶ *Id.* at 4.

⁷ *Id.* at 1-2.

nine months of publication of the *AWS-3 NPRM* in the Federal Register.⁸ TDS Telecommunications Corp. and United States Cellular Corporation jointly filed a letter in support of MetroPCS's request.⁹

3. M2Z Networks, Inc. (M2Z) opposes the *Request*, arguing that MetroPCS has failed to adequately explain why carriers cannot comment on the service rules in the 2155-2175 MHz band "without revealing their confidential 700 MHz bidding strategies."¹⁰ M2Z also noted that "parties are free to file *ex parte* comments at the conclusion of the 700 MHz auction, to the extent anything that occurs there *may* be relevant."¹¹ In addition, M2Z asserts that MetroPCS's proposed extension could cause the Commission to be unable to meet its stated nine-month deadline for adopting service rules.¹²

4. Under Section 1.46(a) of the Commission's rules, it is the policy of the Commission that extensions of time shall not be routinely granted,¹³ and we find that the circumstances presented do not warrant extending the comment deadline for certain issues. We do not believe that it is necessary to wait until the outcome of Auction No. 73 has been determined to collect a meaningful record on the issues raised in the *AWS-3 NPRM*. Such a delay would, however, hamper the Commission's efforts to issue service rules within nine months from Federal Register publication, as it has committed to do.¹⁴ Although compliance with the Commission's anti-collusion rules is a matter of utmost importance, the fact that these rules are now in effect for Auction Nos. 73/76¹⁵ should not preclude interested parties from filing meaningful and timely comments regarding service and technical rules in the 2155-2175 MHz band in response to the *AWS-3 NPRM*. In all events, applicants for an FCC auction must be mindful that public statements can violate the anti-collusion rules. Thus, commenters that are subject to the anti-collusion rules must review their comments, reply comments, and ex-parte submissions to ensure that auction bids and/or bidding strategy are not communicated. As M2Z notes, however, if information arises as a result of the 700 MHz band auction that would affect the AWS-3 proceeding, interested parties may supplement the record by filing *ex parte* comments.¹⁶

5. Finally, we do not believe that bifurcating the schedule for the AWS-3 proceeding to have comments on "technical" issues due before comments on the "remaining" issues would substantially advance the course of the proceeding because there is a significant potential for these issues to overlap. A bifurcated schedule would also risk confusion and/or disputes that could become a source of delay.

⁸ *Id.* at 4-5. The *AWS-3 NPRM* was published in the Federal Register on November 14, 2007. See note 2, *supra*.

⁹ See Letter to Secretary, FCC, from George Y. Wheeler, Esq., on behalf of TDS Telecommunications Corp. and United States Cellular Corp. (filed December 7, 2007).

¹⁰ Opposition of M2Z Networks, Inc. to the Request of MetroPCS for Substantial Extension of the Pleading Cycle (filed December 7, 2007).

¹¹ *Id.*

¹² *Id.*

¹³ 47 C.F.R. § 1.46(a).

¹⁴ See *AWS-3 NPRM* at 17037-38 ¶ 4.

¹⁵ See *700 MHz Auction Band Public Notice* at 18149-18154, ¶¶ 15-34.

¹⁶ See *AWS-3 NPRM* at 17099, ¶ 156.

6. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 154(j), and sections 0.131, 0.331, and 1.46 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, and 1.46, that the Request of MetroPCS Communications, Inc. for Partial Modification of Comment and Reply Comment Deadlines (filed December 6, 2007) is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Fred B. Campbell, Jr.
Chief, Wireless Telecommunications Bureau